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#12/Response
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IBM Docket No. JP920000096US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Applicants:

Natsuyama et al.

Serial No.: 09/681,674

Filed: May 18, 2001

Date: May 21, 2003

Group Art Unit: 2871

Examiner: Rude

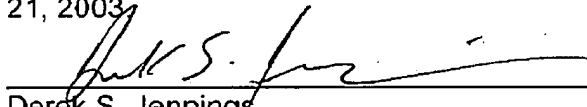
Docket No.: JP920000096US1

For: LIQUID CRYSTAL DISPLAY DEVICE AND A METHOD THEREOF

Assistant Commissioner for Patents
Washington, D. C. 20231

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper (3 pages, remarks) is being facsimile transmitted under Rule 37 CFR 1.6(d) to the U.S. Patent and Trademark Office to (703) 872-9319 on May 21, 2003.


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REMARKS

In response to the Final Office Action dated May 16, 2003, applicants offer the following remarks addressing the outstanding Office Action.

The finality of Office Action dated May 16, 2003 is pre-mature and improper for the following reasons.

As noted by Applicant's previous amendment dated March 18, 2003, original claim 4 was amended to include the limitations of original claim 8. Accordingly, claim 8 was cancelled. No new, "non-examined", subject matter was presented in the amended claim 4 filed March 18, 2003.

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The Examiner's statement "it is respectfully pointed out that the incorporation of the limitations of claim 8 into claim 4 necessitated the new grounds of rejection for claim 4 above, regardless of whether no new matter was presented" is improper for the current final rejection. Applicant does not dispute the fact that the Examiner may have needed to change the grounds of rejection for current amended claim 4. Especially, in view of applicant's previous remarks showing how the prior art failed to make applicant's claim 8 either anticipated under 35 U.S.C. 102 or unpatentable under 35 U.S.C. 103. However, the Examiner's attention is directed to applicant's statement filed April 29, 2003. No new, "non-examined", subject matter was presented in the amended claim 4 filed March 18, 2003. The current Final Office Action would be proper if the Examiner maintained the same grounds of rejection and prior art when rejecting applicant's amended claim 4. However, the Examiner has changed the grounds of the rejection by changing the prior art being used to reject applicant's amended claim 4, which contains the "same" limitations as applicants original claim 8. Again, no new matter or "non-examined", subject matter was presented in the amended claim 4 filed March 18, 2003.

Accordingly, the finality of the Office Action dated April 28, 2003 should be withdrawn and a new, non-final Office Action should be issued with a re-starting of the shortened statutory period for reply.

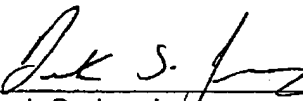
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Respectfully submitted,

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